



Tyngsborough Board of Health

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Sheila Perrault, Chairperson

Bernadette Harper – Vice Chairperson

Patricia Quinn

Christopher Mellen

Tracie Looney

Board of Health Meeting Minutes January 14, 2013

Members Present: Sheila Perrault (SP), Pat Quinn (PQ), Chris Mellen (CM), Bernadette Harper (BH)

Also Present: Kerri C. Oun (KO) – Health Agent, Karen Steeves (KS) – Administrator Assistant, Matt Waterman (MW) – Landtech Consultant
Diana Keohane (DK) – recycling subcommittee

6:07 CM: Made motion to open meeting.

BH: 2nd the motion

Vote: yes -4 no -0

6:14 Meeting Minutes

BH: Made motion to accept meeting minutes from December 12, 2012.

PQ: 2nd the motion

Vote: yes -4 no -0

6:15 Stonehedge Inn Pool and Spa

Levent Bozkurt, the owner of Stonehedge Inn and Spa, was present to request postponement of adding a 4 inch strip of contrasting color to the steps and ledges of the pool and spa until he renovates or drains his pool. BOH sent violation notice on June 15, 2011. 2 of the violations were to add depth markers and add contrasting line to the steps and ledges of the pool. The 2 violations were given to Dec. 31, 2012 to correct. Mr. Bozkurt spoke to the State and the State referred him to the Swimming Pool regulation which stated that the lines do not need to be put in until renovation or draining. He asked the Board if he can wait until the pool is drained for renovation purposes. SP asked who he spoke with at the State. He did not remember. KO asked when he spoke to the State and he claimed recently when he received the reminder from the BOH (around December 10, 2012). BH recalled that the Board had a walk through and had discussed all of this before. BH asked KO to remind the Board of what was the outcome. KO said that Mr. Bozkurt and his lawyer, Peter Nicosia, appeared before the Board and the Board has ordered Stonehedge to correct the last 2 violations (contrasting color for the steps and ledges and the depth markers) within the next renewal period which was December 31, 2011. Stonehedge then requested an extension which was granted until the next renewal period which is December 31, 2012. KO has noted that the depth marker was first cited in 1995 and the violation was fixed in 2012. The violation of the line with the contrasting color on the steps and ledges was first cited in

1999. Mr. Bozkurt claimed that since his pool was opened in 1994, he never had to empty his pool. KO reminded him that his spa has to be emptied every 14 days and the steps to the spa have not been painted either. Mr. Bozkurt claimed it will be a large expense to make this repair. KO asked if he had looked into other alternatives of making the corrections without the draining the pool or get a cost estimate on how much it would cost to drain and paint the pool. Mr. Bozkurt claimed he has contacted a couple of pool companies and both claimed it cannot be done without draining the pool but willing to look into other solutions if the Board has any suggestions. SP main concern is that this is a safety issue. The contrasting color makes it visible for the people to see. Mr. Bozkurt claimed that since the pool has been opened, there has not been an incidence. If the Board wants to push the issue even though the State Sanitary Code stated that the painting can wait until the pool is drained, he asked the Board to send him the decision and to note in the meeting minutes that he is being forced to do this. The Board reminded him that the decision has been made about 18 months ago for him to put in the line hence the enforcement letters and the letter of extension. KO reminded him that the same argument was made the last time when he and his lawyer were at the last meeting and agreed to put in the lines. Mr. Bozkurt claimed he did not realize the law was on his side then until he spoke to the State recently. Mr. Bozkurt reiterated that this is an expensive project. BH reminded him that he is operating without a pool permit. The Board wants further discussion of this issue at the end of the meeting and will get back to LB with a decision.

6:50 FengShui

Candace Huang, manager of FengShui, was present to request variance for sushi rice. Owner, Stephen Dong, was not able to make the meeting. The rice will be render non-potentially hazardous by adding vinegar to the rice to a pH of 4.6 or less. The target pH for FengShui will be 3.82 (per lab result). A HACCP plan has been submitted to the BOH to be kept on file. pH will be taken for each batch of rice and will be kept on file for at least 30 days.

BH: Made motion to grant variance for the use of acidification as a Public Health Control for sushi-vinegar rice.

CM: 2nd motion

Vote: yes – 4 no-0

6:56 104 Middlesex Rd. – no show

6:56 Olive Garden

Dale McKinnon, the engineer, was present on behalf of Olive Garden. He has received a design from National (N) Grid. The design does not work with what he has given them. He wanted to start construction without the design from N Grid. He wanted to install structures for the pumping station and will call them in and start construction base on the N Grid design and if does not fit, will work things out in the field. According to Mr. McKinnon, this is the best course of action for now. The next step is to get the contractor to start the work due to what seems to be a mild winter. The contractor is Barry Invernizzi. Mr. McKinnon will ask Mr. Invernizzi to take the exam. MW asked if Olive Garden has paid N Grid for the permit. Mr. McKinnon does not know. He wanted the contractor to construct structures for pump station and the FAST system. The leaching field can follow at a later day. BH asked for a target date for construction. As of right now, he does not have a target date for the Board. He will call Geoff to get date for start of construction and will call the BOH office and MW with the information. MW asked about the pump station being replaced and what was the reason for the replacement. Mr. McKinnon said the existing pump was replaced and it was due to failure. Water softener has been separated from the septic system and connected to the gutter system.

SP asked if the structure is in place, what will happen if N Grid says that the design does not work. Will that slow down the process? Mr. McKinnon does not anticipate that situation. MW said that the design conflict was due to bend in the electric line and does not think that N Grid will "kick back" too hard but if it is due to offset or access, then it would be an issue.

KS pointed out last pumping day was 11/23 but we have not received any pumping slips since then. MW said that Ms. Charlesworth did send in a FOG and water maintenance plan. The Board asked Mr. McKinnon to get pumping records, get the installer to get license, and a feedback on potential time line. Continued to February 11, 2013.

7:16 **Health Agent's Report**

MAVEN: All BOH are required to use MAVEN by the END OF DEC. 2013. KO did sign up for training online but not has completed training. "MAVEN" is the Massachusetts Virtual Epidemiologic Network, a PHIN (Public Health Information Network) compliant, secure web-based surveillance and case management system for infectious diseases that enables rapid, efficient communication among local and state health departments and laboratories. MAVEN facilitates case investigation and management and decreases paperwork.

HHAN ALERT Need additional person to sign up for HHAN (Health and Homeland Alert Network) @ alert.network@state.ma.us. As of right now, only KO is signed up. BH and SP volunteered to be on the HHAN alert. KO will sign them up.

Trash Contract Billerica is going with WM. Burlington, Tewksbury and Tyngsborough are going with AW with single stream recycling. SP asked if we will lose paper rebate. KO said that we will still get paper rebate.

HHW Day: Tentative Date set for Sat., May 18, 2013 – going with same company (PSC) through state contract.

Flu: Massachusetts has reported a high level of flu activity, with 18 deaths. A child, under 6 years old, died from flu. The city of Boston declared a public health emergency on Wednesday. BOH posted on website on how to find flu vaccine and how to prevent flu.

Recycling Grant: KO asked what the Board wants to do regarding recycling grant. At the last meeting Carolyn Dann did a presentation for the Board on the regulation of permitting trash haulers to provide trash and recycling services to their customers with bundle pricing. SP's concern that enforcing this will not improve Town's recycling rate and lower the trash tonnage and feel that is where we should focus on. Biggest concern is the monetary impact on the businesses. KS has sent out the applications for trash haulers and has asked them if they offer recycling businesses and provide list the businesses that do recycle. Most haulers offer recycling to their customers if the businesses choose to pay for it. Some of the customers do recycle. One of the haulers felt they do not want to pressure their customers into recycling. KO reported Carolyn Dann has been sending out emails asking other towns (who have this regulation in place) for impact on businesses after the enforcement is in place. Ms. Dann is waiting for their reply.

EDS Training: The coalition will hold an EDS training for all who may be involved in the EDS. KO will send email to the Board if they are interested in attending. This is a part annual training required by CDC.

7:35 **Administrative Assistant's Report**

Budget: CM had asked KS to check on a line item in the budget last week that was listed for \$184 for clerical. KS had spoken to Town Accountant and that was extra money for office expense. This line item will be put into Health Agent & Administrative Assistants salaries.

7 Overlook Dr: Title V was done as 4 bedroom house but it is a 3 bedroom system. The house was supposed to be built with foyer but the builder put the floor instead and now the area is used as a prayer room now. The assessor has it as a 4 bedroom. The house is under agreement. Ask the Board if it is ok for the owner to put a deed restriction for a 3 bedroom instead of making the owner put in a new system. Once we receive deed restriction, KS will send an approved Title V letter.

BH: made motion to accept a 3 bedroom deed restriction.

PQ: 2nd the motion

Vote: yes -4 no - 0

Maple Ridge: KS reported that Maple Ridge will add recycling for the houses only. 40Bs refuse to recycle. CM asked if Merrimack receive recycling services. KS said yes.

Recycling: CM asked if we have received any Christmas lights. KS said that we did receive one set. CM asked for posting on the recycling calendar and recycling website. KO said if there is anything the recycling subcommittee would like to post on the website, send her an email and she will do it.

Stonehedge (continued):

SP asked whose interpretation is correct for the code. KO said Mr. Bozkurt's interpretation is correct but because he had come in before the Board and the Board ordered him to do it, it needs to be done, especially since it has been an ongoing issue and where we do not know when he will drains his pool. SP asked because he and his lawyer did come before the meeting and agreed to do it, does it trump the code. KO's opinion is yes because there has been an agreement. SP asked if the Town Counsel looked into this issue. KO said that he had looked into the grandfathered clause and agreed with the State that there is no grandfathered clause unless it is stated in the code. PQ said that this is not a grandfathered clause and because the code said that he can wait until the pool is drained, Mr. Bozkurt is arguing that he should be able to wait. KO said that the spa has not been painted either because the spa has to be emptied every 14 days and the Board should be able to make him put in the lines for the pool as well especially when Mr. Bozkurt and the Board already had the discussion and Mr. Bozkurt agreed to do it. KS said that 18 years is a long time that the pool has not been emptied to be painted.

BH's concern is whether the Board can legally make him put in the contrasting line. SP and BH asked if KO can call the State lawyer or Town's counsel before the BOH considers closing the pool. SP asked KO to send email to the Board for the lawyers' opinion.

BH: made motion for KO to talk to an attorney or State DPH regarding issue before issuing an order to close Stonehedge Pool and Spa.

PQ: 2nd the motion

Vote: Yes - 4 No - 0

Recycling Subcommittee: DH asked if the Board will be coming to the recycling subcommittee meeting Wednesday night, the 23rd or if there are any concerns or issues in addition to what was discussed tonight that the Board would like her to talk with Carolyn Dann. BH said she will not be able to make. SP asked if Carolyn Dann can work with Town wide recycling issue as opposed to just the businesses. DH stated the grant is to work with businesses and 40Bs and to increase recycling in Town. The only way to increase recycling

in Town is to add teeth to the mandatory recycling and it is up to the Board on how to do it. SP commented what she heard from the residents through conversations and through websites are concerns with their neighbors that do not recycle and that there are a lot of negative statements and misconception regarding Board of Health on not enforcing the issue. And the realization is that the Board of Health does not have the finance to provide the man power to police the curbside recycling. The Board of Health is not against recycling. DH said that the BOH can come to the recycling subcommittee meeting to discuss the grant.

8:24 Motion to adjourn

PQ: made motion to adjourn

CM: 2ndthe motion

Vote: yes -4 no – 0

Respectfully for the Board of Health

Kerri C. Oun

Health Agent